

REMARKS

In the March 25, 2005 Office Action, the drawings were objected to and claims 12-14 stand rejected in view of prior art, while claims 11-21 were provisionally rejected under double patenting. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the March 25, 2005 Office Action, Applicant has amended the claims as indicated above. Thus, claims 11-21 are pending, with claims 11, 12 and 20 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Drawings

In paragraph 1 of the Office Action, the drawings were objected to for informalities indicated on the Notice of Draftsperson's Patent Drawing Review. In response, Applicant has filed herewith a Request for Approval of Proposed Drawing Corrections containing eight (8) replacement sheets of formal drawings. Applicant believes that the drawings now comply with 37 CFR §1.83(a). Applicant respectfully requests withdrawal of the objections.

Rejections - 35 U.S.C. § 103

In paragraph 3 of the Office Action, claims 12-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,099,425 (Kondo). In response, Applicant has amended independent claim 12 to clearly define the present invention over the prior art of record.

In particular, independent claim 12 recites, *inter alia*, a fixed member including a first mounting flange extending axially along a second pivot axis away from a mounting portion of the fixed member to form a first link receiving recess between the first mounting flange and the mounting portion. The first link receiving recess is configured such that a majority of the first link is disposed therein. This arrangement is *not* disclosed or suggested by the

Kondo patent or any other prior art of record. It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art *suggests* the desirability of the modification.

Kondo discloses a front derailleur with a fixed member 30 including mounting flanges 50 and 52. Kondo further discloses a first link 81 of a linkage assembly 34. However, Kondo does not disclose a first mounting flange that extends axially to form *a first link receiving recess* such that a *majority* of the first link is disposed in the *first link receiving recess*. As shown in Figure 3 of Kondo, the flange 50 *does not* extend axially such that a first link receiving recess is created to accommodate a *majority* of the first link. Accordingly, the prior art of record lacks any suggestion or expectation of success for combining the patents to create the Applicant's unique front derailleur.

More specifically, if the front derailleur of the Kondo patent were some how modified to meet the claims of the present invention, it would require a complete reconstruction, which would destroy the teaching of the Kondo patent.

Moreover, Applicant believes that dependent claims 13 and 14 are also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, dependent claims 13 and 14 are further allowable because they include additional limitations. Thus, Applicant believes that since the prior art of record does not disclose or suggest the invention as set forth in independent claim 12, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Therefore, Applicant respectfully requests that this rejection be withdrawn in view of the above comments and amendments.

Double Patenting

In paragraph 5 of the Office Action, claims 11-21 were provisionally rejected under the judicially created doctrine of double patenting over copending application no. 9/991,880. Applicant has submitted a terminal disclaimer to obviate this rejection.

On page 4 of the Office Action, the Office Action cites *In re Schneller* and MPEP 804. MPEP 804 II. B. 2. states that only in unique circumstances should *In re Schneller* be cited. Furthermore, MPEP 804 II. B. 2. states that the **Technology Center Director must approve** any nonstatutory double patenting rejection based on *In re Schneller*. The Office Action is silent as to whether the Technology Center Director has approved this rejection. Nevertheless, Applicant respectfully submits *In re Schneller* is not applicable.


Prior Art Citation

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention obvious.

Conclusion

In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 11-21 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,


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AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include formal drawings for Figures 1, 4, 5 and 8-23. These sheets, which include Figures 1, 4, 5 and 8-23, replace the original sheets that include Figures 1, 4, 5 and 8-23.

Attachment: eight (8) replacement sheet